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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/067,148 05/26/93 MONTAGNIER L 3495.000404

PARKIN, EXAMINER

18N1/0529

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ART UNIT

PAPER NUMBER

1813

DATE MAILED:

05/29/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/067,148

Applicant(s)
Montagnier et al.

Examiner
Jeffrey S. Parkin, Ph.D.

Group Art Unit
1813



☒ Responsive to communication(s) filed on 2/15/96

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 15, 16, 18-20, and 29-31 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 15, 16, and 18-20 is/are allowed.

☒ Claim(s) 29-31 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Serial No.: 08/067,148
Applicants: Montagnier et al.

Docket No.: 3495.0004-04
Filing Date: 05/26/93

Detailed Office Action

1. Acknowledgement is hereby made of the Amendment filed February 15, 1996, in which claims 15, 16, 18, and 20 were amended. Claims 15, 16, 18-20, and 29-31 are currently pending in the instant application.

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2. The previous rejection of claims 15-16 and 18-20 under 35 U.S.C. § 103 as being unpatentable over Barre-Sinoussi et al. (1985) is hereby withdrawn in response to applicants' amendment.

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3. The previous rejection of claims 15-16 and 18-20, under 35 U.S.C. § 101 as being directed towards non-statutory subject matter is hereby withdrawn in response to applicants amendment.

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4. Claims 29-31 stand rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification in Paper No. 25 and as further elaborated below. Applicants traverse and assert that "the application as a whole supports the immunological complexes claimed in claims 29-31." As stated in Paper No. 25 "the specification is silent pertaining to any indication by the applicant that such complexes were contemplated and considered as an embodiment of the invention." Although the terms "immunocomplexes" and "immune complexes" appear on page 12 of the specification, this brief recitation is not sufficient to provide support for the instantly claimed immunological complexes involving

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the viral antigens p12 or p18 and antibodies directed against said antigens. The specification does not disclose the contemplation, preparation, purification, or associated use of these immune complexes. Applicants are invited to identify those portions of the specification reciting support for the instantly claimed invention.

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5. The previous rejection of claims 16, 19, 30, and 31, under 35 U.S.C. 102(a) as being anticipated by McDougal et al. (1985, J. Immunol. Methods 76:171-183), is hereby withdrawn in response to applicants' amendment.

6. The previous rejection of claims 15-16, 18-20, and 29-31, under 35 U.S.C. § 103 as being unpatentable over Luciw and Dina (1992, US PAT 5,156,949), is hereby withdrawn in response to applicants' amendment.

7. The previous rejection of claims 15-16, 18-20, and 29-31, under 35 U.S.C. § 103 as being unpatentable over the combined teachings of McDougal et al. (1985, J. Immunol. Methods 76:171-183) and Barre-Sinoussi et al. (1985, Retroviruses Hum. Pathol. Int. Symp. Abstract), is hereby withdrawn in response to applicants' amendment.

8. Claims 15, 16, and 18-20 appear to be free of the prior art.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

5 A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS
10 SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE
EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE
OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL
AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE
SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY
ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R.
§ 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY
ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE
LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

15 10. Correspondence related to this application may be submitted to
Group 1813 by facsimile transmission. The faxing of such papers must
conform with the notice published in the Official Gazette, 1096 OG 30
(November 15, 1989). The fax number for Group 1813 is **(703) 305-
7939**. Applicants are encouraged to notify the Examiner prior to the
submission of such documents to facilitate their expeditious
processing and entry.

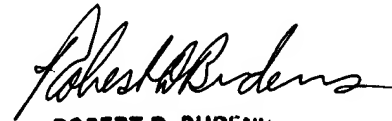
20 11. Any inquiry concerning this communication should be directed to
Jeffrey S. Parkin, Ph.D. whose telephone number is **(703) 308-2227**.
The examiner can normally be reached Monday through Friday from 8:30
25 AM to 6:00 PM. A message may be left on the examiner's voice mail
service. If attempts to reach the examiner are unsuccessful, the
examiner's supervisor, **Ms. Christine Nucker** can be reached at **(703)
308-4028**. Any inquiry of a general nature or relating to the status
of this application should be directed to the Group 1813 receptionist
whose telephone number is (703) 308-0196.

Respectfully,



Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1813

May 23, 1996



**ROBERT D. BUDENS
PRIMARY EXAMINER
GROUP 1800**